

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

862P0295

## HOUSE BILL NO. 1099

Introduced by: Representatives Vehle, Deadrick, and Elliott and Senator Hansen (Tom) at  
the request of the Interim Committee on Education for Divorcing Parents,  
Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to require custody or visitation dispute mediation under  
2 certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-4-56 be amended to read as follows:

5 25-4-56. In any custody or visitation dispute between parents, the court shall, ~~unless the~~  
6 ~~court deems it inappropriate under the facts of the case~~ on its own motion, or the court shall, on  
7 the written request of either parent, order mediation to assist the parties in formulating or  
8 modifying a plan, or in implementing a plan, for custody or visitation and shall allocate the cost  
9 of the mediation between the parties unless:

10 (1) One of the parents has been convicted of domestic abuse as defined in subdivision  
11 25-10-1(1); or

12 (2) One of the parents has been convicted of assault against a person as defined in  
13 subdivision 25-10-1(2), except against any person related by consanguinity, but not  
14 living in the same household; or



1       (3)    One of the parents has a proven history of domestic abuse; or

2       (4)    Mediation is not readily available or the court determines that mediation is not

3            appropriate based on the facts and circumstances of the case.

4    The court may also direct that an investigation be conducted to assist the court in making a

5    custody or visitation determination and shall allocate the costs of such investigation between

6    the parties. A history of domestic abuse may only be proven by greater convincing force of the

7    evidence.